

**REMARKS**

Claims 1-20 are pending in this Application. Reconsideration and allowance of this application are respectfully requested.

**CLAIM REJECTIONS - 35 U.S.C. §103**

Claims 1-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Cherrington et al. ("Cherrington"), U.S. Patent No. 6,070,155 in view of Melick et al. ("Melick"), U.S. Patent Publication No. 2001/0047283 A1. This rejection is respectfully traversed.

Applicants submit that Cherrington and Melick, individually or in combination, fail to disclose or suggest, *inter alia*, "the stored receipt inspection reporting data includes defect codes for assigning different categories of defect to facilitate access of the database", as recited in claims 1, 5, 9 and 17.

The Examiner admits in the Office Action<sup>1</sup> that Cherrington does not explicitly teach "defect codes for assigning different categories of defect to facilitate access of the database". Yet the Examiner attempts to overcome the admitted deficiencies of Cherrington by arguing that Melick teaches the above features. However, it is submitted that the system of Melick is a completely different system than the features recited in claim 1, 5, 9 and 17.

Specifically, paragraph [0077] of Melick discloses:

After performing the inspection, the subscriber may note whether the particular piece of equipment has passed or failed. If the inspection results in a failure, the subscriber may indicate what should be done with the piece of equipment. For example, a subscriber may choose that the sling be scrapped and select a scrap icon 107, note that the identification tag is missing and select the ID tag missing icon 108, or suggest that the sling be repaired and select the repair icon 109. The outcome of the inspection is then recorded and a record annotation 106 is prepared. This record annotation 106 is used to update the record 111 which is then stored on the network server 100.

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<sup>1</sup> Final Office Action, page 3, 3<sup>rd</sup> paragraph.

In other words, Melick merely discloses selecting the equipment for inspection, inspecting the selected equipment, determining the inspection result, and updating the equipment data with the inspection result. Thus, there is no mention in Melick that the inspection result (defect code) facilitates access of the database.

In contrast, claims 1, 5, 9 and 17 recite that defect codes may be assigned for different categories of defect to facilitate access by, for example, “searching for specific defect data”. There is no mention that the inspection result of Melick can perform a search for specific defect data.

Further, the Examiner allegedly asserted that the damage codes in Melick: “B” for “Burned”, “BT” for “Bent or Twisted”, “HD” for “Hook Damages”, or “WBM” for “Worn Below Minimum”, etc., (as shown in Fig. 12; Fig. 8), taught the “defect codes”. However, Applicants submit that the damage codes of Melick are not used to facilitate the access of the database; but rather, merely used as another inputted data to generate the inspection result.

Moreover, the Examiner is using impermissible hindsight reconstruction to reject the features recited in claims 1, 5, 9 and 17. The Examiner's assertion that “it would have been obvious to one of ordinary skill in the art at the Data Processing art at the time of the invention to add the feature of Cherrington to the system of Melick as an essential means to and increase the accuracy of inspection report and expand the services of inspection reporting and tracking among a large number of parties located throughout the world”, is not evidence for obviousness. Applicants disagree with the Examiner's reasoning, and submit that the mere possibility that a system in one reference could be used in another system in another reference is not sufficient evidence of a suggestion or motivation to combine the two references. Applicants submit that the Examiner has used the present application as a blueprint, and selected a prior art system of Cherrington as the main system and then searched other prior art for the missing features of Melick without identifying or discussing any specific evidence of motivation to combine, other than providing conclusionary

statements regarding the knowledge of the art, motivation and obviousness. The Federal Circuit has noted that the PTO and the courts "cannot use hindsight reasoning or hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention"<sup>2</sup>, and that the best defense against hindsight based obviousness analysis is the rigorous application of the requirement for a showing of a teaching or motivation to combine the prior art references. Thus, Applicants submit that the Examiner has failed to provide any evidence of motivation for combining the teachings of Cherrington and Melick. Accordingly, the Examiner has not adequately supported the selection and combination of Cherrington and Melick to render claim obvious.

For at least these reasons, Applicants submit that Cherrington and Melick, individually or in combination, fail to disclose or render obvious the features in independent claims 1, 5, 9 and 17. Claims 2-4, 6-8, 10-16 and 18-20 which depend from the independent claims are likewise distinguished over the applied art for at least the reasons discussed above, as well as for the additional features they recite. Reconsideration and withdrawal of the rejections are respectfully requested.

### **CONCLUSION**

Accordingly, in view of the above amendments and remarks, reconsideration of the rejections and allowance of each of claims 1-20 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number below.

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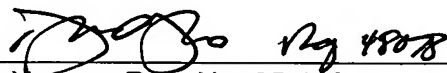
<sup>2</sup> In re Fine, 5 USPQ2d 1780 (Fed. Cir. 1988),

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNES, DICKEY, & PIERCE, P.L.C.

By

  
Gary D. Yacura, Reg. No. 35,416

P.O. Box 8910  
Reston, Virginia 20195  
(703) 668-8000

GDY/DJC/